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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,089	02/08/2001	David L. Kaehler	2400-585	1668
27820	7590	02/28/2005	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512			BUTLER, MICHAEL E	
		ART UNIT	PAPER NUMBER	
		3653		

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/779,089	KAEHLER ET AL	
Examiner	Art Unit		
Michael Butler	3653		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 July 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 4-22,24-38 and 40-50 is/are pending in the application.  
4a) Of the above claim(s) 25-38,40 and 41, 43-44 is/are withdrawn from consideration.  
5)  Claim(s) 45-50 is/are allowed.  
6)  Claim(s) 4,5,9,15,17-20 and 42 is/are rejected.  
7)  Claim(s) 6-8,11-14,16,21 and 22 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.  
13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.  
14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6)  Other: \_\_\_\_\_

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

#### ***Election/Restriction***

1. Applicant's election of invention I without traverse of the restriction requirement in Paper No. 5 is acknowledged and made final.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 4,15, 17-19, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Humphrey 6497407 which discloses all the claimed elements including:

(Re: cl 4, 42) A remote transaction station, comprising: an inventory of products; and at least one special product, remote transaction station operative to dispense at least one special product at random to a customer, and to vend a product selected by the customer in the same transaction (c 3 L9-19)

at least one special product is randomly distributed within said inventory of remote transaction station (c6 L 35-56)

(Re: cl 15) first detector operative to detect the dispensing of either said selected product or said at least one special product; and a second detector operative to detect the dispensing of said selected product but not the dispensing of said at least one special product; and wherein the dispensing of said at least one special product is identified by the lack of indication from said second detector (c6 L 35-56)

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(Re: cl 17) special product is dispensed generally simultaneously with said selected product (c6 L 35-56)

(Re: cl 18) at least one special product is stored separately from said inventory, and is dispensed to the customer along a channel distinct from that by which said selected product is dispensed (c4 L 24-46)

(Re: cl 19) dispensing of said at least one special product is triggered on a pseudo-random basis (c 6 L 58-63).

4. Claims 4,18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Probasco 3010607 which discloses all the claimed elements including:

(Re: cl 4) A remote transaction station, comprising: an inventory of products; and at least one special product, remote transaction station operative to dispense at least one special product at random to a customer, and to vend a product selected by the customer in the same transaction (c2 L 20-28),

at least one special product is randomly distributed within said inventory of remote transaction station (c 3 L9-19)

(Re: cl 18) (17) at least one special product is stored separately from inventory, and is dispensed to the customer along a channel distinct from that by which selected product is dispensed (c 3 L9-19)

(Re: cl 19) the dispensing of said at least one special product is triggered on a pseudo-random basis.

5. Claims 4, 18-19, and 22 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Stair 2361977 which discloses all the claimed elements including:

(Re: cl 4, 18) A remote transaction station, comprising: an inventory of products; and at least one special product, remote transaction station operative to dispense at least one special product at random to a customer, and to vend a product selected by the customer in the same transaction (p2 c1 L 10-62)

(4) at least one special product is randomly distributed within said inventory of remote transaction station (p3 c1 L 20-62)

(Re: cl 18) (17) at least one special product is stored separately from inventory, and is dispensed to the customer along a channel distinct from that by which selected product is dispensed (p2 c1 L 10-62)

(Re: cl 19) the dispensing of said at least one special product is triggered on a pseudo-random basis (p2 c1 L 10-c2 L 24)

(Re: cl 22)(19) the odds of at least one special product being dispensed is dependent on the method of payment for said selected product (p4 c1 L 1-21).

(Re: cl 42) randomly dispensing a second product to the customer if special product is dispensed both are dispensed in the same transaction:

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remote transaction station contains said product and said special product in separate inventories, and wherein said remote transaction station further comprises a controller operative to generate a special product dispensing signal at random, said special product dispensing signal operative to dispense said special product to the customer. (p3 c1 L 59-p4 c1 L 29).

6. Claims 42 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Sincock 5217224 which discloses all the claimed elements including:

(Re: cl 42) randomly dispensing a product from a remote transaction station to a customer comprising:  
receiving a selection input for a selected product from the customer  
dispensing product  
randomly dispensing a second product to the customer  
if special product is dispensed both are dispensed in the same transaction:  
remote transaction station contains said product and said special product in separate inventories, and wherein said remote transaction station further comprises a controller operative to generate a special product dispensing signal at random, said special product dispensing signal operative to dispense said special product to the customer.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-5, 9-10, 15, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humphrey in view of Hazelbrook et al. in which the former discloses: the elements previously discussed and Hazelbrook et al. further discloses any elements not inherently taught by Humphrey et al.

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(Re: cl 5) an optical detector operative to detect and identify an optical indicia on said at least one special product (p7 L 21-22)

(Re: cl 9,10) a magnetic detector operative to detect a bi-state magnetic marker on said at least one special product (p7 L 21-22)

(Re: cl 15) a first detector operative to detect the dispensing of either said selected product or said at least one special product; and a second detector operative to detect the dispensing of said selected product but not the dispensing of said at least one special product; and wherein the dispensing of said at least one special product is identified by the lack of indication from said second detector (p4 L 10-12).

It would have been obvious at the time of the invention for Humphrey to substitute an optical detector for the detecting the customer does as a reliable non-interfering product as taught by Hazlebrook et al. and come up with the instant invention.

9. Claims 18-20, 24, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myashita et al. and Wittern, Jr. et al. in which:

Myashita et al. discloses:

(re: cl 18) a vending machine with customer selectable product dispensing plus common transaction random generated special product dispensing.(abstract);

(re: cl 19) dispensing triggered on pseudorandom basis (fig 11);

(re: cl 20) microprocessor generates pseudorandom signal (fig. 11).

Wittern, Jr. et al. discloses:

(Re: cl 1, 39) Remote vending machine transaction control system for single transaction dispensing having (c4 L 5-13)

(re: cl 17,18) special and selected product dispensed concurrently (c6 L 13-27)

(re: cl 24) special and selected product dispensed remotely (c6 L 13-27)

(re: cl 39, 18) receiving selection from customer dispensing special product, vending selected product, if special product dispensed in same transaction ( c2 L 7-21)

(re: cl 18,42) separate inventories (15vs 21 vs 22 Fig. 1).

It would have been obvious at the time of the invention to place Myashita et al. under remote control to monitor transactions criterion, update inventory status, as taught by Wittern, Jr. et al. and thereby come up with the instant invention.

It would have been obvious at the time of the invention for to use separate inventories Myashita et al. to gain the diversity and inventory of plural machines as taught by Wittern, Jr. et al. and thereby come up with the instant invention.

It would have been obvious at the time of the invention for to dispense concurrently and remotely to Myashita et al. to provide incentives for the purchase of complementary products from differing machines as taught by Wittern, Jr. et al. and thereby come up with the instant invention.

10. Claims 4,9-10, 15, 18-20, 24, 40, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myashita et al. and Hazelbrook et al. in which Myashita et al. (4213524) discloses the elements previously discussed and Hazlebrook further discloses any elements not inherently taught by Myashita et al.:

(Re: cl 4, 40) remote transaction station comprises an inventory wherein product and special product are commingled, detector is operative to detect special product as it is dispensed (p6 L 4-10)

(Re: cl 41) detector selected from the group consisting of: optical detector, rf detector, sonic detector, reactive detector, and an oscillator (p7 L 21-22). (Re: cl 5,41) an optical detector operative to detect and identify an optical indicia on said at least one special product (p7 L 21-22)

(Re: cl 9, 10) a magnetic detector operative to detect a bi-state magnetic marker on said at least one special product (p7 L 21-22)

(Re: cl 15) a first detector operative to detect the dispensing of either said selected product or said at least one special product; and a second detector operative to detect the dispensing of said selected product but not the dispensing of said at least one special product; and wherein the dispensing of said at least one special product is identified by the lack of indication from said second detector (p4 L 10-12).

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It would have been obvious at the time of the invention for to dispense concurrently and remotely to Myashita et al. to provide incentives for the purchase of complementary products from differing machines as taught by Hazlebrook et al. and thereby come up with the instant invention.

It would have been obvious at the time of the invention for Myashita et al. to distribute the special and elected product from a common inventory to minimize storage costs as taught by Hazlebrook et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Myashita et al. to sense distribution with an optical sensor to verify dispensing complete and proper article as taught by Hazlebrook et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Myashita et al. to sense distribution with an magnetic sensor to verify dispensing complete and proper article as taught by Hazlebrook et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Myashita et al. to sense absence of an elected product to minimize marking of all products as taught by Hazlebrook et al. and thereby come up with the instant invention.

It would have been obvious at the time of the invention for to dispense concurrently and remotely to Myashita et al. to provide incentives for the purchase of complementary products from differing machines as taught by Hazlebrook et al. and thereby come up with the instant invention.

11. Claims 4, 18-19, and 22 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stair view of Hazelbrook et al. in which the former discloses: the elements previously

discussed and Hazelbrook et al. discloses any element not inherently disclosed by Stair including:

(Re: cl 4, 40) remote transaction station comprises an inventory wherein product and special product are commingled, detector is operative to detect special product as it is dispensed (p6 L 4-10)

(Re: cl 41) detector selected from the group consisting of: optical detector, rf detector, sonic detector, reactive detector, and an oscillator (p7 L 21-22). (Re: cl 5,41) an optical detector operative to detect and identify an optical indicia on said at least one special product (p7 L 21-22)

(Re: cl 9) a magnetic detector operative to detect a magnetic marker on said at least one special product (p7 L 21-22)

(Re: cl 15) a first detector operative to detect the dispensing of either said selected product or said at least one special product; and a second detector operative to detect the dispensing of said selected product but not the dispensing of said at least one special product; and wherein the dispensing of said at least one special product is identified by the lack of indication from said second detector (p4 L 10-12).

It would have been obvious at the time of the invention for to dispense concurrently and remotely to Stair to provide incentives for the purchase of complementary products from differing machines as taught by Hazlebrook et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Stair to distribute the special and elected product from a common inventory to minimize storage costs as taught by Hazlebrook et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Stair to sense distribution with an optical sensor to verify dispensing complete and proper article as taught by Hazlebrook et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Stair to sense distribution with an magnetic sensor to verify dispensing complete and proper article as taught by Hazlebrook et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Stair to sense absence of an elected product to minimize marking of all products as taught by Hazlebrook et al. and thereby come up with the instant invention. It

would have been obvious at the time of the invention for to dispense concurrently and remotely to Stair to provide incentives for the purchase of complementary products from differing machines as taught by Hazlebrook et al. and thereby come up with the instant invention.

***Allowable Subject Matter***

12. The previous indication of allowable claim scope of claims 4-5, 9, and 15 is withdrawn in view of newly discovered art. The Office apologizes for this inconvenience.
13. Claims 45-50 are allowed.
14. Claims 6-8, 11-14, 16, and 21 are objected to as being dependent claims premised upon a rejected base claim but would be allowed if the re-written in independent form or if the limitations of an allowable claim were incorporated within the independent base claim from which this claims depend or if re-written premised upon dependence from an otherwise allowable base claim.

***Response to Amendments***

15. Applicant's arguments are deemed moot in view of the newly found art.

***Response to Arguments***

16. The applicant's arguments have been fully considered but they are unpersuasive in overcoming the objection to the IDS. The Abstract merely shows a subset of what is disclosed in the document. Substantial matter is frequently disclosed outside the context of the abstract yet omitted from the abstract as the abstract is directed a summary of the claimed invention rather than summarizing the entire disclosure. As such, it is not possible to discern from the abstract whether relevant matter is disclosed.

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

*Michael E. Butler*

Michael E. Butler  
Examiner

  
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